

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4400 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

KHAMBHAT NAGAR PALIKA

Versus

WORKMEN OF KHAMBHAT NAGAR PALIKA

Appearance:

1. Special Civil Application No. 4400 of 1991
NOTICE SERVED for Petitioner No. 1
MR PC MASTER for Respondent No. 1
Mr. Nagesh Sood, AGP for Respondent No. 2

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 06/05/2003

ORAL JUDGEMENT

This petition is filed by Khambhat Nagarpalika challenging the award passed by the Industrial Tribunal, Ahmedabad, in I.T. No. 884 of 1984. This Court had issued the Rule on 8-7-1991 and granted ad-interim stay of the operation of the award. Thereafter, further order was passed by this Court on 19-8-1991, which is as under;

"Learned Counsel for the petitioner Nagar Palika

states that he will move the competent authority under the Municipalities Act for creation of additional posts, so that the order of the Industrial Tribunal can be complied with. In the meantime, we issue notice to the Director of Municipalities for the purpose of exploring possibility as to whether additional posts of 24 Safai Kamdar can be created on the establishment of the petitioner Nagar Palika pursuant to the award of the Industrial Tribunal dated 14/11/1990. Notice to the newly added party returnable on 27th August 1991. D.S. permitted."

2. Originally, the petition was filed on behalf of the petitioner by Shri HL Patel. On his death, a fresh notice was issued to the petitioner and the same was duly served, and yet no appearance was filed on behalf of the petitioner. When this matter was placed for Final Hearing, nobody is appearing on behalf of the petitioner. Learned advocate Mr. PC Master is appearing for the respondent No.1 and learned AGP Mr. Nagesh Sood is working for the Director of Municipalities.

3. It appears that pursuant to the statement of the learned advocate appearing for the petitioner, recorded by this Court on 19-8-1991, no action has been taken so far. Mr. Sood, learned AGP has stated that the Government has written several letters to the Nagarpalika calling for details with regard to the sanctioned posts, details of employees, increase in the posts etc. However, no reply has been received from the Nagarpalika. It is rather strange that the statement was made before this Court that the learned counsel for the Nagarpalika will move the competent authority for creation of additional posts so that the order of the Industrial Tribunal could be complied with, and yet till this date the Court is not informed as to whether any such move is made or if any such move is made, the outcome of the said action. Be that as it may, this Court is of the view that Nagarpalika should have taken action in view of the statement made before this Court for the purpose of complying with the order of the Industrial Tribunal. Simply because this Court has granted stay against the order of the Industrial Tribunal, it does not mean that the statement made before this Court should not be complied with. I, therefore, direct the petitioner Nagarpalika to move the State Government with regard to the creation of additional posts keeping in mind the

statement made within a reasonable time and if such a request is made by the Nagarpalika for increase of the posts, the respondent No.2 herein shall consider the same in the facts and circumstances of the case as well as in view of the order passed by the Tribunal and the representations made by the Nagarpalika. Since the matter is very old the petitioner as well as the respondent No.2 are directed to complete the formalities as expeditiously as possibly preferably within a period of 6 months from the date of receipt of writ from this Court or from the date of receipt of the certified copy of this order whichever is earlier. In case the Government does not sanction the increase in posts or takes any adverse view in the matter, it is open for the respondent workman to challenge the said decision before this Court.

4. With the aforesaid directions, the petition is disposed of. Rule is discharged. The interim relief granted earlier is vacated. No order as to costs.

rmr. [K.A. Puj, J.]